

REMARKS/ARGUMENTS

This present Response is being filed in reply to the Office Action dated April 22, 2009. Applicant requests a one month extension of time, including the associated fee, extending the period of response to and including August 22, 2009.

By the present amendment, claims 4, 7, 9 and 11 have been amended. Claims 4, 7, 9, 11, and 15-20 are pending in the application.

Support for the claim amendments can be found throughout the specification and drawings, including the claims as originally filed. No new matter has been added. The amendment of the claims should in no way be construed to be in acquiescence to any of the rejections. The amendment of the claims is being made solely to expedite prosecution of the above-identified patent application. Applicants reserve the option to further prosecute the same or similar claims in the present or subsequent patent applications.

Telephonic Interview

The Applicants wish to thank the Examiner for the telephone interview of July 23, 2009, during which the Applicant's representative and the Examiner discussed U.S. Patent No. 2,625,967 to Stull and U.S. Patent No. 2,370,407 to McCartney and claim amendments set forth herein.

Rejection of Claims 4, 7, 9, 11 and 18-20 under 35 U.S.C. § 102

The Office Action rejected claims 4, 7 and 9 under 35 U.S.C. § 102(b) as being anticipated by Stull (U.S. Patent No. 2,625,967). Applicants respectfully traverse this rejection based on the following arguments.

By the present amendment, independent claims 4 and 7 have been amended to recite that the branches of the body are spaced-apart a distance to form a first substantially U-shaped recess, the first substantially U-shaped recess opening at an end of the distal end portion of the body and extending proximally from the end. Claims 4 and 7 were further amended to recite that the outer sleeve includes a pair of spaced-apart arms at a distal end of the outer sleeve that define a second substantially U-shaped recess and that the second

substantially U-shaped recess aligns with the first substantially U-shaped recess when the outer sleeve is in the second position to accommodate a spinal rod within the first substantially U-shaped recess and the second substantially U-shaped recess.

The Examiner agrees that Stull fails to disclose the limitations of amended claims 4 and 7.

For at least this reason, Applicants request withdrawal of the rejection of independent claim 4 and independent claim 7, and claim 9 dependent on claim 7, under 35 U.S.C. § 102(b).

The Office Action rejected 11 and 18-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by McCartney (U.S. Patent No. 2,370,407). Applicants respectfully traverse this rejection based on the following arguments.

By the present amendment, independent claim 11 has been amended to recite that the branches of the body are spaced-apart a distance to form a first substantially U-shaped recess, the first substantially U-shaped recess opening at an end of the distal end portion of the body and extending proximally from the end. Claim 11 was further amended to recite that the outer sleeve includes a pair of spaced-apart arms at a distal end of the outer sleeve that define a second substantially U-shaped recess and that the second substantially U-shaped recess aligns with the first substantially U-shaped recess when the outer sleeve is in the second position to accommodate a spinal rod within the first substantially U-shaped recess and the second substantially U-shaped recess.

The Examiner agrees that McCartney fails to disclose the limitations of amended claim 11.

For at least this reason, Applicants request withdrawal of the rejection of independent claim 11, and claims 18-20 dependent thereon, under 35 U.S.C. § 102(b).

Conclusion

In view of the remarks set forth above, it is respectfully submitted that this application is in condition for allowance. Accordingly, allowance is requested. If there are any remaining issues or the Examiner believes that a telephone conversation with the Applicants' attorney would be helpful in expediting the prosecution of the application, the Examiner is invited to call the undersigned at (508) 880-8488.

Respectfully submitted,

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